

Affidavit of Brian D. Bardwell

I, Brian D. Bardwell, having been duly sworn, state as follows:

1. I am over the age of 18 and competent to testify to the facts below based on personal knowledge.
2. I am counsel to Plaintiff Marcellus Gilreath.
3. On March 24, 2023 at 9:11 p.m., I signed in to the Cuyahoga County Clerk of Courts's e-file system.
4. Once in that system, I opened up a file for Dr. Gilreath. I entered the names and addresses of the parties, I uploaded a PDF of the Dr. Gilreath's complaint, and I entered my credit-card information to pay any fees associated with opening the case.
5. After doing that, I hit the "Submit E-File For Approval" button at 9:16 p.m.
6. The e-file system then gave me the following "Filing Confirmation," saying that my "filing has been submitted":

FILING CONFIRMATION

Your filing has been submitted. Below is a summary of this transaction you may [Print] or copy for your records.

Efile ID: 2811695
Date/Time Submitted: 3/24/2023 9:16:39 PM

Court: CIVIL
Type of Filing: TORT-MISCELLANEOUS
Filing Attorney: BARDWELL/BRIAN/
Plaintiff Title: Marcellus Gilreath
Defendant Title: Pamela McGuinea
Number Foreign: 0
Public Notice: N
Poverty Affidavit: Y
Refiled/Transferred Case: N
Prayer Amount: 0
Jury Demand: Y

IF THE DOCUMENT(S) IS ACCEPTED FOR FILING, THE DATE AND TIME REFLECTED ABOVE SHALL SERVE AS THE DATE AND TIME OF FILING, UNLESS THE DOCUMENT(S) WAS SUBMITTED FOR FILING AFTER 11:59 P.M. ON A FRIDAY OR AFTER 11:59 P.M. ON A BUSINESS DAY BEFORE A COURT HOLIDAY. IN THAT CASE, THE DOCUMENT WILL BE DEEMED FILED ON THE FOLLOWING COURT BUSINESS DAY.

7. At no point did the system ever request or require that I file a poverty affidavit for Dr. Gilreath.
8. The next business day, I saw that the clerk's office had not timestamped my filing. Until then, I had had no indication that there were any issues with the filing.
9. I went to the clerk's office to sort out the issue and ensure that the Complaint was properly filed.



10. A deputy clerk told me she had rejected the filing because there was no poverty affidavit attached.
11. I explained that Dr. Gilreath because was not seeking a fee waiver.
12. The deputy indicated that her system showed that Dr. Gilreath was going to file a poverty affidavit.
13. When I explained that Dr. Gilreath would not be filing a poverty affidavit because he was not seeking a fee waiver, the deputy told me to resubmit the filing, but she said the e-filing system's technical limitations would not permit her to timestamp the complaint with the date when it was actually filed now that she had rejected it. The deputy indicated that such a correction could only happen by motion to the Court.
14. While at the clerk's office, I attempted to resubmit the filing. When I did, I saw that the system's "Poverty Affidavit" option was switched to "Yes." I switched it back to "No" and resubmitted the filing.
15. When the deputy opened the filing on her computer, the system inexplicably showed that "Poverty Affidavit" was nonetheless still switched to "Yes." Because there was no poverty affidavit attached, the deputy rejected the filing again.
16. The deputy again walked me through the process. Again, we switched the "Poverty Affidavit" option to "No." This time, the system recognized that no poverty affidavit was requested.
17. The deputy was finally able to push the filing through the system.
18. At no point during this process did I make any changes to the information about the case that I entered into the system. When the system finally recognized that Dr. Gilreath was not requesting a poverty affidavit, it did so without any changes to the other information I had entered about the case, and all that information remained identical across the various attempts at filing the complaint.
19. At no point during this process did I make any changes to the complaint. The clerk's system downloaded its copy of the complaint on March 24 and retained it. When the system finally recognized that Dr. Gilreath was not requesting a poverty affidavit, it used the same file that had been in its system since March 24, and I was never required to upload it after the first time on March 24.

I declare the preceding facts to be true under penalty of perjury.

Brian D. Bardwell

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

Sworn to and subscribed before me on _____.

Notary Public, State of Ohio
My commission expires: _____

I declare the preceding facts to be true under penalty of perjury.

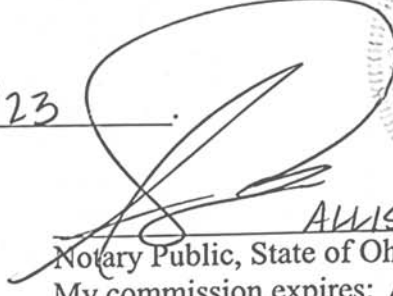

Brian D. Bardwell

STATE OF OHIO

)
) SS.
)

COUNTY OF CUYAHOGA

Sworn to and subscribed before me on 3/27/23.


ALLISON SAKI

Notary Public, State of Ohio

My commission expires: 6/27/23

